



CITY OF MORGAN HILL

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PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

MARCH 12, 2002

PRESENT: Acevedo, Benich, Lyle, McMahon, Mueller, Sullivan, Weston

ABSENT: None

LATE: None

STAFF: Planning Manager (PM) Rowe, City Attorney (CA) Leichter, Community Development Director (CDD) Bischoff, Senior Planner (SP) Linder, Senior Engineer (SE) Creer, and Minutes Clerk Johnson

Chair Sullivan called the meeting to order at 7:00 p.m.

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Chair Sullivan opened the public hearing.

With no persons indicating a wish to speak, the public hearing was closed.

MINUTES:

The February 26, 2002 minutes will be distributed for consideration at the March 26, 2002 meeting.

OLD BUSINESS:

1) UP-01-05: MONTEREY- ARCO

A request to approve a conditional use permit to construct a new 3,600 sf Arco AM/PM mini-market, a 4,500 sf gas station and a 792 sf car wash facility located at 18605 Monterey Rd. at the southwest corner of Monterey and Cochrane Roads

PM Rowe presented the staff report, reminding Commissioners that the Use Permit had been approved at the December 4, 2001 Planning Commission meeting. However, further

review, the City Attorney determined that the Commission acted prematurely by approving the Use Permit prior to City Council approving the Zoning Amendment, and directed staff to return the item to the Commission for reconsideration, if and when the proposed Zoning Amendment is approved by City Council.

PM Rowe continued by saying this item was advertised for the March 12 Planning Commission meeting in anticipation of City Council's final action at their February 27, 2002 meeting. The proposed Zoning Amendment was reviewed by the Morgan Hill Council/Redevelopment Agency on February 27. However, the matter was continued to the April 3, 2002, Council meeting, with direction to staff to further evaluate noise and other land use compatibility concerns. It is recommended, PM Rowe said, that the Planning Commission table this item until the City Council either approves or denies the proposed Zoning Amendment creating the Gateway Planned Unit Development. He reminded that the public would have opportunity to have input at this meeting during the public hearing period and again when the item was rescheduled, if the Planning Commission desired to table the matter.

Chair Sullivan opened the public hearing.

Scott Schilling, applicant, 16060 Caputo Dr. #160, addressed the Commissioners, stating that he supported the staff recommendation.

With no other persons present indicating a wish to speak, the public hearing was closed.

COMMISSIONERS ACEVEDO/MUELLER MOTIONED TO TABLE THE MATTER PENDING INFORMATION FROM THE MORGAN HILL COUNCIL/REDEVELOPMENT AGENCY ON THE PROPOSED ZONING AMENDMENT. THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, LYLE, MCMAHON, MUELLER, SULLIVAN, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

LEGALLY NOTICED PUBLIC HEARINGS

PM Rowe was excused. Following discussion with CA Leichter, Commissioner Acevedo was excused as well at 7:11 p.m..

In introducing the items for discussion in the RDCS Competition for the meeting, SP Linder reminded all present of the following Global Issues discussed and identified at the February 26 meeting:

Open Space Criteria 3.a, b, c:

3. a: The project will receive **three points** for a commitment to purchase Transferable Development Credits (TDCs) from property owners with land of greater than twenty percent slope, based upon the cumulative project to-date ratio of one TDC for every twenty-five dwelling units proposed; **OR** 3.b: Projects of 24 units or less which do not provide a common park or open space will receive six points for a commitment to purchase double TDC's; **OR** 3.c: Projects zoned R2, R3, or similar or higher density classification will receive 6 points for a commitment to purchase double TDC's.

The Commission decided that for this competition, applications will need to be scored as either R1 or R2 projects for the purpose of purchasing TDC's. A project cannot be both since the criteria as currently worded states "or". The Commission did ask staff to include this criteria for review as part of the update process. The update process should review a method of proration of the TDC commitments based on a percentage of R2 and R1 development within a project.

Orderly and Contiguous 4.

4. A proposed development which is a subsequent phase of a previously approved project that has been awarded allotments, provides for the continuous extension of existing development.

A proposed development which is a subsequent or final phase of a previously allocated development and consists of 30 dwelling units or less shall be awarded two points.

The Commission agreed that if projects added units within the same project boundary in order to take advantage of the new General Plan Policies, it would not be counted against the project. The Commission also agreed that if a project has an approved development agreement for a project phase, that phase should be counted as developed.

Housing Needs 2.

2. Over and above the BMR units committed in this section, provides an additional 10% detached units in an R-2 project or an additional 10% attached units in an R1 project. **(2 points)**

The Commission agreed that since the criteria is currently worded as an "or," then the point should be awarded to projects meeting either condition. The Commission also requested that staff have the update committee review this criteria to further clarify its intent.

Schools 2.

2. Up to **four** additional **points** may be awarded to a project where:

a. A safe walking route exists between the project site and existing or planned MHUSD schools. A safe route is defined as providing continuous sidewalks and/or paved pedestrian pathways, cross walks and caution signals at designated street intersections between the project and a school site.

i. The project is within 3/4 of a mile of a school serving grades K through 3 where students are not required to cross railroad tracks, arterial or collector streets **(one point)**.

ii. The project is within 3/4 of a mile of a school serving grades 4 through 6 where students are not required to cross railroad tracks or arterial streets **(one point)**.

iii. The project is within 1.5 miles of a middle/intermediate school where students are not required to cross railroad tracks or arterial streets unless the most direct street crossing

can occur at a signalized intersection **(one point)**.

iv. The project is within 1.5 miles of a high school **(one point)**

The Commission requested that the School District define the method used to measure the distance from a school. The Commission also requested that on a per-project basis, the School District give the actual measurement and where the measurement was taken from. The Commission has also requested that the District define "paved pedestrian path" and whether or not the path is currently existing or "will be" installed in order to get a point.

As the Commission completes the public hearing portion of the Measure P review, SP Linder said, the Commission should give staff any final direction regarding the review of the project scores. For the March 26 meeting, she said, staff will plan to have the revised scores available and a recommendation on possible scenarios for distribution of allotments.

2) RDCS COMPETITION

APPLICANTS FOR THE FOLLOWING PROPOSED RESIDENTIAL DEVELOPMENTS HAVE REQUESTED A BUILDING ALLOTMENT UNDER THE CITY'S RESIDENTIAL DEVELOPMENT CONTROL SYSTEM PURSUANT TO CHAPTER 18.78 OF THE MORGAN HILL MUNICIPAL CODE:

a) MEASURE P, MP-01-06: HILL-GERA: A request for Measure P allocations for Fiscal Year 2003-2004. The project consists of Phase 1 (9 units) of a 17 unit single family estate home development located on the west side of Hill Rd. on both the north and south sides of Jean Ct. Points awarded were 165.5. SP Linder indicated that there were no changes in the total number.

Chair Sullivan opened the public hearing.

Bill McClintock, PO Box 1029, representing the applicant, George Gera, spoke to the Commissioners. Referencing a letter submitted February 22 by FAX to the Planning Department, Mr. McClintock raised the following points:

Schools, Page 7, 2 ai, 2 ii: The application states incorrectly the direct distance from the project to Nordstrom School. The actual distance is less than one half mile. It is 1.1 mile walking distance and the criteria is not clear in this regard. Criteria 3.a and 3.b refer to straight line distances, so that is why we report to you the direct distance, in this criteria. If other applications use straight line distance and not the walking route distance then the application would qualify for 2 more points, one point each in 2. a.i and 2. a.i.l.

Page 11, lc, Open Space: The applicant proposes to install an 8' wide pathway along Hill Road and a 6' wide pathway along Pear Drive as stated in the application. We agree with staff in that they are redundant to the standard City sidewalks; however, the wider pathways are more attractive as they meander through beautifully landscaped areas, and more functional than standard sidewalks. In existing projects with attached sidewalks to curbs, many people prefer to walk in the street due to the many cross-slope changes created by the steeper driveway approaches. We think the sidewalks should go away and

the pathways should be installed in Pear Tree Estates, as the (ARB) decided on the "Trovare" project, wherein the sidewalks were eliminated in favor of the separated pathways. Please reconsider and award 1 more point.

Page 21, Criteria 5, Project Master Plan Design: Mr. McClintock said there is contention that "Pear Tree Estates" has an above average Master Plan Design for the following reasons in response to staffs concerns. While the parcel widths vary in the proposed development from the existing parcels located to the south, the lot areas are actually the same, 40,000 sq. ft., except for the corner Lot 6, thus the density transition to the south is compatible, like for like. If staffs comment is related to lot widths that vary, then consider this. Pear Drive and Jean Court are existing streets that cannot be changed. In order to match existing lot widths on the south side of Pear Drive, the proposed lots would need to be deepened all the way to Jean Court, creating double frontage lots which is not desirable. Instead, the design provides a very attractive streetscape with houses facing each other, which creates a more cohesive neighborhood. As for the staff comment regarding the proposed pedestrian / bicycle path in the front yards, we contend, as previously stated in Open Space criteria 1c on page 11, that if you remove the standard sidewalk along Pear Drive and meander said pathways through a 30 foot landscape casement to be maintained by the Homeowners Association, the design is superior to the alternative standard sidewalk. Reconsideration of this item should result in awarding 1 point for above average design, Mr. McClintock said.

Lot Layout, Page 52, 1.L: Mr. McClintock stated that he and the applicant have previously argued that in the Open Space category, criteria 5 of the Master Plan design, these same issues are restated by staff regarding the pathway located in the front yards and the proposed lot widths varying from existing lot widths to the south and north. Regarding Lot 17 being poorly configured, Mr. McClintock stated we have to agree with staff that it can be improved. However, as this Lot 17 is in future development and not the proposed development, this criticism would be more appropriately made regarding Master Plan, not in Lot Layout. Since Lot 17 is in a future phase and not part of the current phase, we respectfully request reconsideration for this criteria.

Circulation Efficiency, Page 55, 1: As has been stated all along and as the ARB has determined for the Trovare Project, the meandering 8ft. wide pathways are much more desirable than the City standard sidewalk. These pathways meandering through a 30 ft. wide landscape area present a much more attractive streetscape and pedestrians prefer the separated pathway over the standard City sidewalks due to better walking comfort. The sidewalks that slope 10 percent across at driveways causes walking discomfort. If the Commissioners agree with the applicant, Mr. McClintock declared, then 1 point is deserved here.

Circulation Efficiency, Page 59, criteria 5.c: While it is true that the proposal to install full street improvements on Jean Court is within the Master Planned boundaries of the project, the lots located on the north side of Jean Court are not in the proposed development. When the property owners located on the north side of Jean Court would develop is not determined. We do know that they would probably develop at different times, not at the same time. The standard requirement of the proposed development would be only a two-thirds street. Mr. Gera will never recover the cost of widening the street to full width or the cost of installing all the existing and future services to these lots. However, the City and residents in the neighborhood will definitely benefit from these

improvements if completed with Phase I. Reconsideration was requested for 2 points in this criteria.

Page 61, criteria 4, Safety and Security: While it is true that 3 of the 4 models will be required to install fire sprinkler systems, one of the models will install fire sprinklers per the Measure P commitment. This criteria is worth 3 points and prorating the points over the 4 models, then each model should be worth 3/4 of a point. Please reconsider, Mr. McClintock asked, and award the 3/4 of a point, giving 5 maximum points for Safety and Security.

Mr. McClintock emphasized that the applicant had “come a long way since the application of two years ago”, noting particularly the reduction of lot widths. He called attention that the project had been redesigned to create a neighborhood where the houses faced one another.

Mr. McClintock engaged in discussion with Commissioners regarding redundant pathways beside fixed City-owned sidewalks and meandering pathways which had been redesigned through the habitat of the project.

Regarding other merits of the project, Mr. McClintock said that Pear Drive already has duet housing and that the utilities are in place. He specifically requested that if two other allocations were abandoned or found, this project could absorb the allocations and be successful.

Chair Sullivan closed the public hearing.

Commissioner Mueller stated that there had been precedence for a dropped or different standard, noting that the result of this precedence had indicated a preference for meandering paths and said the project should be scored to be reflective of this thinking. He advocated the standard be restudied and the requirement of attachment to a fixed sidewalk be dropped.

SP Linder said that the difference here is that the fixed sidewalk travels through several front yards in the project.

Regarding the specific scoring, Chair Sullivan asked about differences in scoring. SP Linder explained that there has been discussion that when there are physical constraints within the projects, and point reductions are provided for, perhaps there should just be an acknowledgment of the constraints and the points not be adjusted

Commissioner Weston asked about scoring for mirror image developments. Chair Sullivan said the issue may be discussed in the future.

Regarding the request by Mr. McClintock of additional allocations, Commissioners entered into discussion contemplating second year allocations in current year awards.

b) MEASURE P, MP-01-07: SHAFFER-BAMDAD: A request for Measure P allocations for Fiscal Year 2003-2004. The project consists of 15 single family estate homes on 8.58 acres located a westerly extension of Shafer Avenue and northerly extension of Katybeth Way and Conte Court, west of Hill Road. 175 points had

been awarded, SP Linder said, with no further adjustments.

Chair Sullivan opened the public hearing.

Rafi Bamdad, 13250 Pierce Rd., applicant, spoke to the Commissioners saying he had received much assistance from staff and he wished to thank them.

Referencing a letter written February 15, 2002, Mr. Bamdad offered comments in the area of:

Public Facilities, Page 23, Item B.1.a: This design was processed through the City of Morgan Hill's preliminary Measure P review. The project acquired the 2 points for gridding in the preliminary review scoring. We request that the City be consistent and grant the two points for this criteria for a total of 10 points. Mr. Bamdad concluded by saying, "If I get the allocation, he said, I would like the maximum awards possible."

With no others present to address the issue, Chair Sullivan closed the public hearing.

Commissioners commended Mr. Bamdad for participating in the pre-application process. He in turn deemed the experience well worth the price.

Commissioners again discussed the potential of second year allocations during this portion of the meeting. SP Linder was asked to comment on the issue. She explained that the numbers from the Department of Finance have not yet been sent to the City, but the projections indicate there will be no change in the number of allocations available. SP Linder and the Commissioners then discussed the potential future issues which could come about if the allocations were used before the stated years.

c) MEASURE P, MP-01-08: BARRETT-DITRI: A request for Measure P allocations for Fiscal Year 2003-2004. The project consists of 16 single family homes on a 5 acre parcel located on the north side of Barrett Ave. adjacent to the east side of Barrett Elementary School. The original scoring for this project was 168; further review changed the total to 165.5, with a reduction of 1 point in the Quality of Construction category, .5 point in the Safety and Security category and 1 point less in the Natural and Environmental category.

Chair Sullivan opened the public hearing.

Bill McClintock, P.O. Box 1029, representing the applicant Dan Ditri, restated the issues raised in his letter of February 20, 2002 sent to the Planning Department, requesting reconsideration of the following specific criteria:

Quality of Construction, Page 48, 4.a. and 4.b: Mr. McClintock apologized for not responding in the text of the project narrative for criteria 4a and 4b; however, he said, the architect's drawings, which were made and submitted as part of the application, clearly show the proposed architectural elements that apply to the criteria, as follows:

Criteria 4a. Fifty percent of the units do have porches, balconies or multi-unit courtyards as follows:

Model 2400 has balcony

(3 units)

Model 2800 has porch/courtyard	(2 units)
Model 3200 has balcony	<u>(3 units)</u>
Total:	8 units

This qualifies for 1 point, he said.

Criteria 4b. The architectural plans show gable and hip roof lines throughout the project, as well as on each model. Model 2400 is predominantly gable, with a little hip over the master bedroom and the duet units are hip roofs. There are two roof pitches proposed in the project. 6/12 pitches are on all the models except Model 3200, which is a 4/12 pitch. This qualifies for 1 more point, adding a total of 2 points to the Quality of Construction category.

Lot Layout Page 51, 1.f: While the applicant and his engineer recognized the proposed lot layout was not superior and only asked for an above average score, they disagreed on all comments made by staff. The sideyard setbacks on Lot 15 are standard, 5 feet on the single-story garage and 15 feet on the 2nd floor where 12.5 ft. is minimum. How could this be an issue, they asked? While the driveway to Lot 15 is in close proximity to the driveway into Barrett School, Mr. McClintock indicated, there is still 14 feet separating driveways edge-to-edge. The City's minimum separation is the width of two tapers or 6 feet. There will be no traffic conflicts, as Barrett Avenue to the east is a cul-de-sac. All traffic to the school will come from the west turning into the school, and leaving the school to the west. The resident leaving Lot 15 will back out onto Barrett Ave. going east and depart going west. None of these movements conflict with each other.

Mr. McClintock continued: Density transitions very well overall and lot-to-lot in this project. Lot sizes move up from 7,000 Sq. ft. at Barrett Ave. to .50 acre at the northern boundary where one-acre lots exist on the adjoining property. The specific lot size transition between Parcels 8 and 9 also works well. Parcel 8 is nearly 11,000 S.F. with a two-story residence requiring 12.5 ft. setbacks on the side yards. Parcel 9 is a 15,000 sq. ft. parcel on the cul-de-sac where lot sizes are usually increased, and only a single story residence will be allowed. The stipulated setback shown on the site development plan is 15 ft. on Parcel 9. The single-story structure on Parcel 9 will have a much larger building footprint than the two-story structure on Parcel 8. However he said with the comparable sideyard setbacks the buildings will transition very well, even though a 4,000 sq. ft. increase in lot size is realized. Mr. McClintock asked Commissioners to remember that Parcels 10 and 11 should be .50-acre lots near the existing 1-acre parcels to the north.

The remnant property that is referred to is not a remnant. Quoting Webster's dictionary, Mr. McClintock said "remnant" is defined as a remainder, something left over. This area, he said, is definitely connected and made a part of the Open Space Area, and it has a purpose! On the Site Development Plan, all the trees are to be planted in the 17 ft. wide appendage between Parcel 11 and the Barrett School play yard. This design is attempting to provide a landscape buffer between the fence and the school yard in order to reduce the noise impacts from the school yard. The alternative of building two fences next to each other is unsightly compared to the continuity of the tree planting along the common frontage of the park and school play yard as proposed. Based on the information presented, Mr. McClintock asked for 1 additional point.

Circulation Efficiency, Page 57, 3.h.i: The proposed cul-de-sac design meets all City standards from maximum length of 600 feet, to minimum width of 48 ft., to cul-de-sac radius of 42 ft. Sheet 2 of 4 mislabeled the radius at 40 ft., actual design is 42 ft., 84 ft. in diameter when scaled, Mr. McClintock said, asking that the 1 point be reconsidered.

Mr. McClintock said this is a great location, it is right next to a school, and could not be better for children to walk. The cul-de-sac had been moved so there is maximum distance from the church. He noted that Lot 15 had been reconfigured, changed and there were no backyards on the school boundary. Further, he said, "I was surprised to find that Quality of Construction had been reduced. I really thought the porches and balconies would get additional points, especially when coupled with the roof slopes, which are nicely pitched."

Mr. McClintock also questioned the points in Circulation, saying the length of the cul-de-sac should bring additional points. The fact that the property has two existing units, which the owner is willing to tear down and build four units to start, is of benefit to the neighborhood.

Chair Sullivan closed the public hearing.

Before being seated again, Mr. McClintock said there was need for clarification in the verbiage of the document.

Commissioner Lyle raised the issue of duplicate points being awarded in multiple categories, e.g., Public Facilities 2f and Circulation Efficiency 3d and 5a and 5 b. Staff was requested to look into the matter.

Commissioner Mueller expressed concern regarding the impact of this project on the Church property, which he said results in the Church property being a long, narrow, isolated strip. The Church is next to the freeway and if this is allowed, they become land-locked with no recourse for expansion, providing very limited use. "We need to carefully consider how this will play out, he said.

Commissioner Acevedo returned and was seated on the dais at 7:32 p.m.

Returning to the issue of borrowed future year allocations, Commissioner Lyle said that if it appears that a project only needs a few allocations to totally finish the project in the second year, e.g., if it is a 15-unit project and 10 allocations are given this year, then 5 could also be promised so that the project could be logically finished. Commissioner Weston indicated agreement with this proposal. Commissioner Lyle continued this would be beneficial to small projects and asked staff to determine how many projects might be affected in this manner.

Commissioner Mueller said the Commission should be concerned with the notion proposed by Commissioner Lyle, as the developers had been told early on this year, that there is a hard-and-fast rule which negates such action. He cited that only on-going projects were proposed to have additional allocations awarded. If more allocations become available, he said, then ok.

Commissioner Lyle clarified that he would only support any projects requiring fewer than 10 additional allocations. Commissioner Benich said if efficiency was improved, he would go for 5 additional allocations.

Commissioner McMahon recollected that there was strong discouragement of dipping into future years allocations. Developers were encouraged to closeout the projects on a timely basis. She indicated that five would be a lot if they overflowed into the next year.

Chair Sullivan asked if there should be consideration of infrastructure in place when talking about additional allocations? Benich indicated that if the developer was to the point of 'finishing off', the infrastructure should be in.

Commissioner Mueller reminded that the Commission had taken a strong stance on the matter in the past, only to be overruled by the City Council. He stated, "We may not want to force a guy to go through the entire process now, having sent a message to the developers previously. I'm concerned with maintaining consistency." He continued that when the final award process is considered in May, the developer may not know until then what options might be available if the rules are changed now.

SP Linder reiterated again that the City is awaiting data from the Department of Finance to firm up the allocation predictions for this and future years. "It is unknown," she said, "if more allocations are going to be possible." Staff was directed to study and present several possible scenarios of the dilemma.

Commissioner Acevedo indicated support for the position espoused by Commissioner McMahon. He noted that this year's allocation had already been dipped into and he would prefer not continuing this practice except for nearly-completed continuing projects. He said a hard line needed to be kept in this matter.

Commissioner Weston said that the City - both the Council and the Commission - has indicated that there was a desire to complete projects and if there was not effort to do so, we are contradicting ourselves.

Chair Sullivan directed staff to report as indicated earlier as consensus regarding the matter had not been reached.

Commissioner Lyle revisited the Global Issues from the last meeting, asking if other Commissioners were comfortable with *Housing Needs*, item 2, page 3? He presented information indicating that "what we ended up with is the exact opposite of what we intended by trying to accomplish mixed use of R1 and R2 in a single development". He provided several examples, and said, "We can fix this problem for next time, but staff needs direction." He also indicated that the information on page 3, Hn2 which is **or** should be **and**.

Commissioner Weston said that if the intent had been to achieve "fully mixed", it would be difficult to give points without ratios in the perimeters given. Commissioner Lyle said he believed a proration to be possible. Commissioner McMahon said she needed to hear from the developers on the matter.

It was made clear by up-coming speakers Vince Burgos, Rocke Garcia, and Scott Schilling, all of whom had been active during the discussions and involved with the process on a continuing basis, that they were in favor of the pro ration as explained in the orientation meeting.

Vince Burgos, 352 S. Eagle Nest Ln., Danville, took the podium to state that the issue had

been made very clear and direction indicated received in the Measure P orientation.

Rocke Garcia, 700 E. 3rd, said the 10 BMRs must be split between the R1 and R2 - but it doesn't matter where. He said the City Council wanted 9,000 sq. ft. lots for R2 and the R1 lot size does not allow for wiggle room.

Scott Schilling, 16060 Caputo Dr. #160, asked the Commissioners to recall the Central Park development and how this discussion could have a significant impact on the project. He emphasized that the developers did not go into the process blindly, this criteria had been well understood at the orientation.

Chair Sullivan indicated there was a need to bind the Global Issues and bring the discussion to closure. Commissioners continued the discussion, ultimately deciding that there may be some ability for proration this year, with a need for clarification for next year.

Responding to a question by Chair Sullivan, staff indicated clear understanding of the issues involved and could accurately reflect what the Commissioners believe important for continuity.

Commissioner Mueller summarized: We want to prorate and if we gave direction to the developers at orientation, that direction must be followed. Other Commissioners agreed with his statement unanimously. Commissioner Mueller continued that there are two categories involved R1 and R2, and a project can be both. In the first, it can be prorated by TDC on a unit basis, and in the second, if the project followed directions, in the area of mixed units with 10% above, then points should be given.

Commissioners directed staff to bring back final point recommendations, presenting various scenarios for possible allocations.

PM Rowe returned to his seat at the meeting.

**3) ZA-01-18/
SD-01-04/DA-01-02:
MCLAUGHLIN-
JONES** A request for approval of a 9 lot subdivision of a 2.15 acre parcel located on the east side of McLaughlin Ave., north of Central Ave. in the R-2 3,500 zoning district. Also requested is the approval of a precise development plan (RPD zoning designation) and the approval of a project development agreement. A mitigated negative declaration is proposed.

PM Rowe presented the staff report. He provided the background of events of the project application, stating that at the December 4 meeting, the Commission indicated that they would like to see all of the properties involved designed as a single Residential Planned Development (RPD). This would include the 5-unit micro Measure P development and the remaining undeveloped properties east of McLaughlin Avenue and north of E. Central Avenue, east to the railroad tracks. The applicant indicated at the meeting that they would be willing to submit a revised RPD application encompassing all of the above properties.

Continuing, PM Rowe said that at the January 22 meeting the applicant indicated that they did not understand the Commission's direction at the previous meeting and did intend to submit a precise development plan which encompassed the entire property, but wished to do so only after the City had approved the 9-lot subdivision map. At the January 22,

2002 meeting PM Rowe reminded, Commissioners Mueller and McMahon motioned to continue the matter until the next meeting, which would have been February 12, 2002, noting an expectation that an RPD to the area east of McLaughlin Avenue and north of E. Central Avenue, east to the railroad tracks, would be submitted showing the 5-unit subdivision which has been approved under Measure P; the potential for development of the area; and how the applicant's proposal fits into the Master Plan. The motion passed unanimously.

The next set of events, PM Rowe reported, occurred on February 7, 2002 when the applicant brought in a revised RPD plan, but had not revised the subdivision layout to correspond to the RPD plan. At the February 12 meeting, the Commission again passed a motion by Commissioner Mueller to continue this matter to March 12, 2002. Inclusive in the motion was a provision that the applicant submit a complete RPD over the whole area, a 5-unit subdivision map be submitted, submittal of a revised application be received, and that staff provide the Measure P scoring parameters, exemption area clarification, and any other information which the Commission needed to see dealing the involvement of Measure P.

Consequently, PM Rowe said, on February 26, the applicant submitted a revised subdivision map that now corresponds to the February 7 RPD site plan. The applicant also submitted a revised application for the proposed RPD. The revised application placed conditions on the Commission's review of the application. Since the Commission cannot be required to take actions prior to review, staff has informed the applicant that the revised RPD application cannot be accepted for processing.

The applicant's attorney, Bruce Tichinin, sent a letter dated February 24, 2002 which stated in part: Submitted herewith is an application for the rezoning to RPD in the matter of McLaughlin-Jones requested by the Planning Commission at the February 12, 2002 meeting. This application is submitted conditionally, not absolutely.

It is submitted upon the conditions that:

- "1. The Planning Commission agree to the rezoning and other applications via a specially-scheduled workshop/public hearing of 1/4 to 1/2 day, which is attended by the City Manager, the City Attorney, and Community Development Director;
2. The Planning Commission include in any favorable recommendation to the City Council that an extension of time be granted for the outstanding five Measure P allocations, because of the City delay in processing of the Jones applications submitted on April 26 and August 15, 2001; and
3. The Planning Commission agree that it will consider and arrive at a recommendation to the City Council on Mr. Jones' claim that his current site plan includes 4 parcels created by lot-line adjustment which are exempt from measure P, and which may lawfully be reconfigured in the future, if desirable, without losing this exemption.

The first condition is requested because of the manifest and apparently unavoidable need for greater time than has been possible to allot at ordinary public hearings for the full position of the applicant on the complexities of the application to be aired satisfactorily.

The second condition is requested because delay has been created by complying with the City Request for the expanded RPD zoning application and site plan.”

Responding to that letter on behalf of the Planning Commission and at the direction of the City, PM Rowe wrote to Mr. Tichinin:

“This letter is to acknowledge receipt of your client's application to amend the above referenced zoning application to incorporate the larger area requested by the Morgan Hill Planning Commission at its February 12, 2002 meeting. Included with the request is your letter dated February 24, 2002 outlining the conditions under which the application has been submitted. Upon review, we have determined that these conditions are inappropriate and cannot be honored. The Planning Commission cannot be compelled to commit to a series of actions prior to a public hearing and formal consideration of this matter. As a result, your client's application cannot be accepted for processing. If in the alternative, you wish to present these “conditions” as suggestions to the Planning Commission on how to process the application, then we would be able to accept the application and schedule the hearing in due course.

The Planning Commission continued the original zoning amendment application, and the subdivision and development agreement applications to their March 12, 2002 meeting to allow your client the opportunity to file an amended zoning application. At this meeting the Planning Commission will be advised that an amended zoning application was filed but was not accepted due to the conditions specified in your February 24, 2002 letter. Should you wish to modify your request to include these conditions as "suggestions," we request that you do so in writing. Upon receipt of your letter, we will acknowledge our acceptance and will process the amended zoning application as requested by the Planning Commission.

Rather than continue the current applications, staff will again recommend that the Planning Commission render a decision on original zoning amendment, subdivision and development agreement applications at their March 12, 2002 meeting. Assuming that we have an "unconditional" zoning amendment application to process for the expanded RPD, it will take approximately five to six weeks, with CEQA review and proper noticing, to bring the amended application before the Planning Commission. Staff will recommend that the amended/expanded RPD application be considered as a separate application. The Planning Commission may be favorable to this recommendation provided that we an amended zoning application that has been accepted for processing.”

PM Rowe explained the RDCS Exemption Policy. The policy does not exempt single-unit developments which are part of a current, planned or potentially larger subdivision. The four additional units claimed by the applicant do not qualify as exempt from the RDCS under the exemption policy since they are part of a current, planned and potentially larger subdivision. The development of the four existing lots outside of the RDCS would require that each lot be held under separate ownership and be developed separately. The individual development of the those existing lots would result in four single-family detached homes.

PM Rowe further reported, assuming that Staff receives a zoning amendment application to process for the expanded RPD, without conditions or restrictions imposed by the applicant, it will take approximately five to six weeks, with CEQA review and proper

noticing, to bring the amended application before the Planning Commission. Staff will also evaluate, as part of the expanded area RPD application, whether the Measure P scoring for the 5-unit micro project would need to be adjusted.

Regarding Measure P compliance, PM Rowe provided text from the City's Residential Development Control System ordinance. The text, PM Rowe declared, clearly defines a micro project as maximum of 5 units. The subdivision map as currently submitted is for nine lots. The text also states a project must be located on a site which represents the ultimate or finite development potential of a property. The subdivision and RPD plan submitted by the applicant clearly illustrates that the micro application submitted in 1999 did not qualify as a micro project because additional development potential existed. The Micro application submitted in 1999 consisted of 5 units. Had the Micro application shown nine units, it would not have been accepted. The application also did not request or show any exempt units that the applicant is now claiming.

Having spent countless hours and in much deliberation, PM Rowe said in his concluding remarks that staff was prepared to take definitive direction from the Commission regarding the matter. The applicant is again requesting the Commission approve a 9-lot subdivision. The RPD plan has not been amended to include the larger area as requested by the Commission. The applicant has still not submitted the applications to comply with the Commission's request. As a result, the previous RPD plan that did not address the additional project area is back before the Commission for action.

Commissioner Mueller asked, "Where are we in regards to the Streamlining act?" PM Rowe responded that action must be taken by March 17, 2002.

Commissioner Acevedo wondered if any changes had occurred in the application since the last meeting? PM Rowe told Commissioners that no new data has been received, but took the opportunity to review the Lot-Line Adjustment request.

Chair Sullivan opened the public hearing.

Jerry Jones, 16532 Mira Bella Pl., the applicant, said he did not know where to begin. "Everything has been said during the last five meetings. I disagree with staff. I was given five allocations, and have two exempt, plus the other two, so I have five allocations and four exempt. I have done everything I was asked to do. I don't know where else to go." He indicated he had spent a tremendous amount of money, and was requesting a workshop. Mr. Jones complained that the letter from his attorney was sent to the Planning Commission, not the Planning Department Staff. It was noted for the record that the letter had been co-addressed to the Community Development Department of the City; the Planning Department is a division of that Department. Therefore, Staff would be anticipated to respond to correspondence addressed to the Commissioners.

Bruce Tichinin, 17775 Monterey, addressed the Commissioners, identifying himself as the attorney for the applicant. He said he has heard PM Rowe describe how the application could only consist of 8 lots. Mr. Tichinin noted that Mr. Jones has explained the 9 lot configuration and the lot line adjustment. Mr. Tichinin talked about the staff recommendations and their position regarding the 4 exempt lots with the lot line adjustment. He continued by reading sections from Measure P, citing legal

decisions referencing the issue, saying he hoped the City Attorney would acknowledge those decisions.

The public hearing was closed.

Commissioner Mueller said he had thought of a question he wanted to ask Mr. Tichinin and requested the public hearing be reopened.

Chair Sullivan reopened the public hearing.

Commissioner Mueller asked if the map as proposed requires an RPD? Mr. Tichinin indicated yes, that was the case.

The public hearing was closed.

Under discussion, CA Leichter said the question before the Commission is simple. Is the proposal subject to the Subdivision Map Act? She stated irrevocably that is indeed the case. CA Leichter also indicated that Mr. Tichinin has made correct statements dealing with Measure P, but has not gone far enough in his analysis. There is a need, she said, to look at the whole, rather than pick parts. CA Leichter said there has been an attempt at blurring the lines, but the applicant cannot use Measure P to get around the Subdivision Map Act.

Responding to a question, PM Rowe said there have been 7 hearings since December on this matter.

Chair Sullivan commented that if the application had been submitted as it exists today, it would have been turned down under the Micro projects applications.

PM Rowe agreed, saying the map submitted to the Planning Commission was for five lots, and the Commission had indicated a willingness to approve that map as submitted.

Commissioner Mueller commented that the Commission allowed the applicant to proceed under the Micro competition with five units. In order for the applicant to continue with the larger RPD, he would have to show benefit to the City. Ultimately, with the continued submittals, Commissioner Mueller maintained, the Planning Commission said, "We made a mistake to proceed with the 5-lot Micro" and asked for an RPD for the whole area.

Commissioner Lyle contended that with respect to the other 4 lots, there is a need to craft guidelines for those other four lots; we can't predict the options the applicant may explore.

Chair Sullivan said the five existing lots could be grandfathered in, but if there were indeed nine lots, the whole should enter the competition again.

PM Rowe informed that the issue of the four exempt lots was not before the Commission at this time.

Commissioner Mueller said he is of the opinion that the Commission should deny action based on the applicant not meeting the requirement for an RPD overlay, that the project exhibited no benefit to the City, and the proposal is not in agreement with Measure P. Plus, there was the matter of the creation of additional parcels.

CA Leichter clarified that the question tonight dealt with the five allocations remaining.

Commissioner Lyle spoke on the ramifications of going ahead with the five lots today, versus the original application submission, and whether the points given would remain the same.

Commissioner Acevedo said that in his opinion, given the location and the arguments by Mr. Tichinin, he agreed with the applicant regarding the concern voiced with the increased costs of development. The City needs more low-cost housing, he said. If the analysis supports the applicants arguments, it is a good thing.

Chair Sullivan said that when the project first came to the Planning Commission, the members did want the project. However, the mechanism by which the recent proposal(s) have come, she indicated, have sunk the project for her as they have become very inappropriate. Chair Sullivan said the Planning Commission does not have discretion to selectively enforce City codes and State laws.

Commissioner McMahon referenced parts of the application as conflicting. "I can see value for the City in this project," she said. Continuing, she indicated that while she is interested in the development, she wants to make sure it is a legal development and expressed concern that the Commission has seen five submittals now. It becomes, Commissioner McMahon said, a question of what the Commission requested of the applicant and the non compliance faced.

CA Leichter suggested that the applicant could keep the five allocations and come back for additional allocations in future competitions. She urged the Commissioners to keep in mind where they ultimately want to be. If the applicant keeps the five projects, CA Leichter said, and has to compete for the four remaining projects, the Commissioners may want to look for ways to make it happen; to make sure the first 5 do not lose points and allow the applicant to have the other four work into it.

Commissioner Mueller said it is very important to remember this is not 9 units. In reality it is about 25 considering the adjacent vacant land. He continued by explaining a way for the City to get a good benefit, with development at the density Morgan Hill likes; but to do so, there is a need to look at the whole area. If the larger RPD overlay is done, the applicant can develop appropriately. "I'm concerned, personally, that this thing has taken turns that are not clear, as it is important to look at the whole area" Commissioner Mueller said.

Commissioner Lyle discussed the fact that the allocation is for five units. The applicant could build without an RPD, only one lot needs an RPD. Commissioner Mueller retorted that there was benefit to the City by doing an RPD with an eye to development of the whole area.

Commissioners inquired of CA Leichter's advice on the three Resolutions which had been prepared for consideration. She said that in order to meet the intent of the Streamlining Act, action must be taken at this meeting in the form of a minute order, with the Resolutions being fine tuned as a result of the evening's discussion, and returned to the next meeting.

COMMISSIONERS MUELLER/WESTON MOVED TO DENY ALL THREE REQUESTS UNDER CONSIDERATION AT PRESENT AND THAT RESOLUTIONS WITH FINDINGS BE PREPARED FOR CONSENT CALENDAR ACTION AT THE MARCH 26, 2002 MEETING. THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: BENICH, LYLE, MCMAHON, MUELLER, SULLIVAN, WESTON; NOES: ACEVEDO; ABSTAIN: NONE; ABSENT: NONE.

NEW BUSINESS:

**4) GPA-01-07:
HALE-DELCO**

A request to amend the general plan land use designation on a 1.5 acre portion of a 4.7 acre parcel located on the west side of Hale Ave., approximately 1000 ft. south of the Llagas Rd. and Hale Ave. intersection. The request is to change the designation from Single-Family Medium to Multi-Family Low.

PM Rowe gave the staff report by first providing of the background of the project. He told the Commissioners that in 1997, the City Council amended the land use designation on a series of 5 contiguous properties on the west side of Hale Ave., on the north side of the subject site. The General Plan amendment created an area of Multi-Family land use on the west side of Hale Ave. at a depth of approximately 350 ft., for a distance of approximately 1000 ft. south of the Hale Ave./Llagas Ave. intersection.

PM Rowe continued with the project assessment, saying that the proposed amendment to the General Plan would encompass a 1.5 acre portion of a 4.6-acre parcel. The westerly 3.1 acres of the site will remain designated as Single-Family Medium. The requested designation on the easterly portion of the site is Multi-Family Low which would allow for 5-14 dwelling units per acre, which is consistent with the development plan currently submitted in the 2001 MP application and the environmental review conducted for both the Llagas and Hale Delco developments.

As it now stands, PM Rowe announced, the proposed amendment request would eliminate an existing peninsula of Single-Family Medium land use. As mentioned in the background section of the report, all of the subject properties to the north of the site were designated Multi-Family Low in 1997. All of the properties to the south of the site along Hale Ave. are also designated as Multi-Family low. The subject site is the only sliver of Single Family land use designation on the west side of Hale Ave. between Wright Ave. and Llagas Rd.

Goal 7 of the City's Land Use Element is to achieve a variety of housing types and densities available to all residents, PM Rowe conveyed, and Policy 7d. encourages higher residential densities at locations where convenient access and adequate infrastructure are readily available.

This request, to change the land use designation at this location will help the City maintain a multi-family land use inventory in a location that has convenient access to established transportation routes, walking distance to public elementary and middle schools and also within walking distance to Galvin Park, PM Rowe asserted. The multi family designation will also allow for consistent and compatible development along Hale Ave.

The requested Multi-Family land use designation will also bring the parcel's land use designation in line with the approved and existing, adjacent R2/3,500 development, PM Rowe declared. The property to the north of the site is currently proposed for single-family attached homes as Phase III of the Llagas-Delco project currently under review as part of the RDSCS process. The parcel to the north of the subject site has been approved for single-family attached homes as part of the Hale Ave.-Sheng project which has been purchased by Delco. PM Rowe maintained that Delco has also purchased the subject site, which allows them to interconnect the two developments which allow for a superior circulation pattern in the area.

PM Rowe affirmed that a Multi-Family Low land use designation on this site will allow for compatible development of the site and provide for an appropriate transition in density. Staff recommends, he said, that the Commission forward a recommendation to the City Council for approval of the proposed General Plan amendment request, subject to the findings and conditions contained in the prepared resolution.

Commissioner Benich asked if the proposal was in agreement with what the current General Plan allows? PM Rowe acknowledged that was the case.

Chair Sullivan opened the public hearing.

Vince Burgos, 352 S. Eagle Nest Ln., Danville, told Commissioners that when he was redesigning this project, he always confirmed the requirements and criteria with the Planning staff. He said that the parcels work with the R1 and R2 designations, but this works better with an RPD.

The public hearing was closed.

COMMISSIONERS MUELLER/McMAHON MOTIONED ACCEPTANCE OF THE NEGATIVE DECLARATION. THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, LYLE, McMAHON, MUELLER, SULLIVAN, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

COMMISSIONERS MUELLER/BENICH OFFERED RESOLUTION NO. 02-17, RECOMMENDING APPROVAL OF GENERAL PLAN AMENDMENT, GPA-01-07: HALE AVE.-DELCO, CHANGING THE LAND USE DESIGNATION FROM SINGLE-FAMILY MEDIUM TO MULTI-FAMILY LOW ON THE EASTERLY 1.5 ACRE PORTION OF THE SITE. THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, LYLE, McMAHON, MUELLER, SULLIVAN, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

Items 5 and 6 were heard concurrently.

**5) SDA-00-14:
LLAGAS-DELCO** A request to amend the subdivision approval for a single family housing project proposed on a 16.5 acre parcel located on the south side of Llagas Rd., approximately 400 ft. west of the Hale Ave. and Llagas Rd. intersection. The project is located in the R-1 7,000 zoning district. The proposed amendment is a request to eliminate a minimum lot size requirement for duet units.

**6) SDA-00-15:
HALE-DELCO/
SHENG** A request to amend the subdivision approval on a 4.14 acre parcel located on the west side of Hale Ave., approximately 1,400 ft. south of the Hale Ave. and Llagas Rd. intersection. The project is located in the R-2 3,500 zoning district. The proposed amendment would allow for a reduction in lot width

PM Rowe provided the staff report noting this is a request to amend the subdivision approval for the 46-lot Llagas-Delco Subdivision and the 18-lot Hale-Delco/Sheng Subdivision. The proposed amendments are a request to eliminate minimum lot width and lot size requirements for the attached units within the project.

Staff recommends, PM Rowe said, that regarding Llagas-Delco, the Commissioners approve Resolution No. 02-18 recommending modification of subdivision approval conditions contained in Resolution 01-43. And on Hale-Delco, the recommendation of staff is to approve Resolution No. 02-19, as revised and distributed to Commissioners before the meeting, recommending modification of subdivision approval conditions contained in Resolution 01-46.

To support the report, PM Rowe provided background information that these two adjacent projects were reviewed by the Commission at their June 12 and July 24 meeting. The City Council approved the subdivision and precise development plan for each project at their August 15 meeting.

To further inform the Commissioners of the aspects of the projects, PM Rowe said the approval resolution for the Llagas-Delco project contains the following condition:

X1. The minimum lot width for the duet parcel shall be 40 ft. with a minimum lot size of 5,250 sq. ft.

The applicant is able to meet the 40 ft. width requirement, but is unable to meet the 5,250 sq. ft. lot size requirement for the duet units without major impacts to the project design.

Also, PM Rowe noted that the approval resolution for the Hale-Delco/Sheng project contains the following conditions:

X1. The minimum lot width for the duet and end unit parcels shall be 40 ft.

X3. The minimum lot width for the center, triplex parcels shall be 30 ft.

The applicant is unable to meet the above requirements without significant redesign of the subdivision and proposed homes.

During the Commission's June consideration of the projects, the conditions cited above were raised as concerns by the applicant. However, the Commission's attention was directed toward the project's potential traffic impacts to Llagas and Hale Ave. The Commission continued both applications to the July 24 meeting to allow for a supplemental traffic study to be completed. The issues raised by the applicant at the June meeting were never revisited at the July meeting when the Commission took action on the project. Staff concurs with the applicant's assessment of the above conditions, because they will significantly impact the layout of projects.

Staff is recommending that condition X 1. for the Llagas Ave. project be amended as follows:

X1. The minimum lot width for the duet parcel shall be 40 ft. ~~with a minimum lot size of 5,250 sq. ft.~~

The requirement for a minimum lot size of 5,250 sq. ft. is typical of single-family detached homes, but not attached duet units.

Staff is also recommending that condition X1. and X3. for the Hale Ave. project be deleted. The implementation of these conditions would cause the layout of the project to change and the units to be redesigned. The parcel configuration of the Sheng site, the incorporation of the creek and the access limitations, have made the subdivision layout very challenging. Staff believes that the layout as currently proposed is a good solution and would not recommend changing the project layout.

PM Rowe reiterated that the subdivision approval amendments requested above were not adequately addressed during the initial subdivision approval process. Staff concurs, he said, with the applicant's request and is recommending the subdivision approvals be amended as requested.

Before concluding, PM Rowe said that originally this project presented a totally different configuration and this one is much better. When questioned by the Commissioners, PM Rowe presented a list of the lots affected and described the lot widths. He also spoke on the effect of scoring points, with Commissioner Weston maintaining that it may be possible to obtain minor adjustments to achieve stated goals without adjustment of points. Commissioner McMahon said it does not make sense to reduce lot sizes and take away points for doing so. Commissioners directed staff to amend the prepared resolution to include the minimum lot size(s).

Chair Sullivan opened the public hearing.

Phil Rowe, 2552 Stanwell Dr., Concord, applicant, said this matter came up when proponents of the project were going forward with the final map. At the time of the tentative map, he reflected, the Commissioners were 'ok' with the lot reduction. In discussion at the meeting when the tentative map was discussed, other issues were discussed and this matter mentioned. It was subsequently discovered, Mr. Rowe noted, that the lot width reduction had not been included in the final resolution adopted by the Commissioners. He explained the action tonight would be a matter of clean-up.

Vince Burgos, 352 S. Eagle Nest Ln, Danville, told Commissioners that nothing has changed from the tentative map. On lot 5, he said, the frontage is more narrow than that of lot 8. He explained the parking issues of the project while reiterating that this is not different from the last plan reviewed. Mr. Burgos went on to explain that if this change occurred at the lot line widths, the effect on the project would be minimal.

COMMISSIONERS ACEVEDO/MUELLER OFFERED RESOLUTION NO. 02-18, RECOMMENDING APPROVAL OF AN AMENDMENT TO A SUBDIVISION APPROVAL, ELIMINATING THE REQUIREMENT TO HAVE MINIMUM LOT SIZES OF 5,250 SQ. FT. FOR EACH DUET PARCEL WITHIN THE LLAGAS-DELCO SUBDIVISION. THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, LYLE, MCMAHON, MUELLER, AND SULLIVAN; NOES: WESTON; ABSTAIN: NONE; ABSENT: NONE.

At the suggestion of Commissioner Lyle, some items from Resolutions No. 02-18 and 02-19 were blended and will be reflected in the final, printed resolutions.

COMMISSIONERS ACEVEDO/McMAHON OFFERED RESOLUTION NO. 02-19, RECOMMENDING APPROVAL OF AN AMENDMENT TO A SUBDIVISION APPROVAL, ELIMINATING THE REQUIREMENT TO HAVE A MINIMUM LOT WIDTH OF 40 FT. FOR DUET PARCELS AND 30 FT. MINIMUM WIDTH FOR THE INTERIOR TRIPLEX PARCELS WITHIN THE HALE-DELCO/SHENG SUBDIVISION. THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, LYLE, MCMAHON, MUELLER, AND SULLIVAN; NOES: WESTON; ABSTAIN: NONE; ABSENT: NONE.

**7) UPA-98-07:
MONTEREY-
IRISH
CONSTRUCTION**

A request for approval to amend an existing conditional use permit to demolish an existing 2,000-sf office use within an 18,390-sf construction office and staging yard, and replace with a 3,976-sf office space. The subject site is located at the southeast corner of Monterey Road and Burnett Avenue.

PM Rowe presented the staff report. He then provided the background of the project, saying that in May 1998, the Commission approved a conditional use permit (CUP) to allow for the establishment of a utility/construction servicing yard on the subject site, including the use of an existing building as an administrative office/warehouse building. In December 1998, the CUP was amended to allow revisions to certain conditions of the approval which conflicted with the business needs of the property owner, Irish Construction. At present, he said, the applicant is currently requesting to amend the CUP to allow for an office remodel and expansion of the existing building. The existing CUP requires that any further expansion of the facility or use beyond that described in the amended Statement of Proposed Operations shall be permitted only upon modification of this Use Permit approval or approval under a separate Use Permit application.

PM Rowe reminded Commissioners that this item was first reviewed by the Commission at the May 22, 2001 meeting. At the July 10 meeting, the item was tabled due to unresolved issues regarding possible road dedication and widening along Monterey Road and Burnett Avenue. The application has not changed since it was first

reviewed in May 2001, with the exception that the proposed building addition has been reduced in size by approximately 850 sf, and the west edge of the building footprint has shifted approximately 11.5 ft to the east, away from Monterey Road.

The purpose of the CS district is to create and maintain areas accommodating City-wide and regional services, PM Rowe said, that may be inappropriate in neighborhood or pedestrian-oriented shopping areas, and which generally require automotive access for customer convenience, servicing of vehicles or equipment, loading or unloading, or parking of commercial service vehicles. PM Rowe reminded that although not specifically listed, the office/warehouse building and staging yard was considered to be a use similar in nature to those permitted or conditional uses listing in the CS district.

PM Rowe explained that a new public high school is proposed to be developed on a nearby site, the Sobrato property. When the high school is constructed, the Morgan Hill Unified School District will be required to widen Burnett Avenue. The future Burnett Avenue road widening will encroach onto the Irish Construction property, and consequently impact the 13 parking spaces and loading zone located along the north property line. Staff recommends that as a condition of the use permit amendment approval, the applicant be required to relocate the 13 parking stalls and loading zone interior to the site, upon the widening of Burnett Avenue. In addition, Staff recommends that landscaping be required along the entire north side of the building, extending from the edge of the building to back of sidewalk. The relocation of the parking stalls and loading zone, and the installation of landscaping would be reviewed as part of the site review process.

As a condition of the existing use permit, PM Rowe said, a number of improvements were required, including the installation of a 30-ft. landscape buffer along Monterey Road. The applicant has installed 25 ft of landscaping, but is requesting as part of this CUP amendment application that the remaining five ft. be deferred until after construction is completed on the office expansion. The back five feet encroaches into the construction area of the proposed office expansion, and any landscaping would be destroyed during construction activities. Should the Commission choose to allow the applicant to defer installation of the landscaping, Staff recommends that the applicant be required to post a bond equal to the value of the landscaping or in the amount of \$5,000, whichever is greater, to ensure installation of the required landscaping.

Consideration of staff's recommendation, PM Rowe told Commissioners, included formulation of adequate findings to allow for the approval of the conditional use permit amendment. Accordingly, PM Rowe said the staff recommends approval of conditional use permit amendment for the project, subject to the conditions contained in the proposed resolution.

PM Rowe called attention to specific items in the standard conditions, including numbers 10, 11, and 13 on page 13; and word changes on number 7, all of which deal with parking issues.

Commissioners had other questions and engaged PM Rowe in considerable discussion regarding the following issues:

- landscaping

- parking
- the City well
- potential road/street widening in the area
- perceived unsightliness of the outdoor storage yard.

Chair Sullivan opened the public hearing.

Pat D. Furnare, 2649 Stingle Ave., Rosemead, representing the applicant, explained the boundary issues. He noted that one thing disturbed him was that the last time he was here in May, landscaping was discussed. He continued by stating that they have done everything as directed and that he did not understand why this is an issue now. Mr. Furnare also stated that the information regarding the hearing for the meeting had just been received the day before. He indicated that because of the size of the business, he traveled a great deal and in order to receive the materials, it might need to be sent more timely. Mr. Furnare thought the matter should be continued until he can have discussion with staff.

PM Rowe explained the notification process. Mr. Furnare said, "If we have to begin the landscaping again, we will forget the project and just remodel."

PM Rowe said that if the matter proceeded, it would be heard by the Architectural Review Board, which has a licensed landscape architect who can give direction as to the need to supplement the existing landscaping.

Chair Sullivan closed the public hearing.

COMMISSIONERS ACEVEDO/MUELLER MOTIONED TO CONTINUE THE MATTER OF UPA-98-07: MONTEREY-IRISH CONSTRUCTION TO THE MARCH 26, 2002 MEETING AT THE REQUEST OF THE APPLICANT. THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, LYLE, MCMAHON, MUELLER, SULLIVAN, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

**8) GPA-01-08 /
ZA-01-25: MAST-
ALCINI**

A request to amend the general plan land use designation on a 1.94 vacant parcel located north of Mast St., south of San Pedro Ave., west of Railroad Ave., and east of Church St., from "Commercial" to "Industrial" and to amend the zoning designation from "Service Commercial (CS)" to "General Industrial District (MG)". PM Rowe presented the staff report.

It was specifically noted by PM Rowe that the applicant is not requesting a residential zoning designation. He also outlined a number of General Plan policies which are relevant to the proposed amendment. PM Rowe said that by analysis, staff believes that the proposed General Plan and Zoning Amendments are compatible with the surrounding land use and zoning designations, will not create "spot" zoning and would not create adverse environmental impacts. He therefore requested the Commission's approval of the negative declaration and the applicant's requests, based upon staff's recommendations and subject to the conditions noted in Resolution No. 02-20 (general plan amendment) and Resolution No. 02-21(zoning amendment).

The Commissioners discussed with PM Rowe the necessity for retaining the

easements. PM Rowe explained why there was a need for keeping the easements, while indicating that staff will study the need for vacation of the easements in the future.

Chair Sullivan opened the public hearing.

There being no one present who wished to speak, Chair Sullivan closed the public hearing.

COMMISSIONERS MUELLER/McMAHON MOTIONED TO ACCEPT THE NEGATIVE DECLARATION. THE MOTION PASSED BY THE UNANIMOUS VOTE OF THE COMMISSIONERS PRESENT.

COMMISSIONERS MUELLER/ACEVEDO MOTIONED TO ADOPT RESOLUTION NO. 02-21, RECOMMENDING APPROVAL OF A ZONING AMENDMENT TO CHANGE THE ZONING FROM SERVICE COMMERCIAL TO GENERAL INDUSTRIAL. THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, LYLE, McMAHON, MUELLER, SULLIVAN, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

COMMISSIONERS MUELLER/McMAHON MOTIONED TO ADOPT RESOLUTION NO. 02-20, RECOMMENDING APPROVAL OF GENERAL PLAN AMENDMENT GPA 01-08. THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, LYLE, McMAHON, MUELLER, SULLIVAN, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

Commissioner Lyle commented that he hoped staff would encourage the developer to study the feasibility of inclusion of all the easements.

**9) ZA-01-22:
PEAK-VILLA
HEIGHTS**

A request to amend the R-3/C, multi-family conditional zoning designation on a 2-acre site located at 17090 Peak Ave. The amendment request is to allow additional beds within the existing Villa Heights facility.

PM Rowe provided the Commission with the staff report. He indicated that in February of 1982, the subject property received approval to amend its zoning designation from R2 to R3 (C), to allow the development of the 99 bed convalescent hospital located on the corner of Peak Ave. and Noble Ct. Under the R2 zoning, convalescent hospitals are limited to 15 beds. The R3 zoning has no limitations on the size of a convalescent home. At the time the initial zoning amendment request, persons residing in the neighborhood were supportive of the convalescent hospital, but requested some assurance that the hospital, not multi-family housing would be developed. To accommodate this, the amendment was approved as conditional zoning.

PM Rowe continued by stating that the subject parcel contains a 15 bed senior care facility, which is on a separate parcel adjacent to the 99 bed facility. Both parcels, he said, are subject to the R3 (C) zoning. The applicant is requesting to amend the ordinance to expand the number of beds within the existing facility from 15 to 28. The request is an expansion of the existing senior care use on the property and is in

keeping with the Conditional Zoning. Staff supports the amendment request to allow for an increase in the number of beds within the facility. An increase in the number of beds would cause an increase in the number of parking spaces ~~available~~ required on the site. The parking code requires 1 space for every 2 beds within the facility. The number of spaces is unspecified on the site. The expanded facility would need to accommodate 14 spaces on the site. Prior to expansion of the use the applicant will need to provide the required number of parking stalls on the site. The 1.94-acre parcel is large enough to provide for any additional parking that would need to be developed.

PM Rowe indicated that a parcel map has been submitted to divide the property. As a parcel map, it can be approved administratively by staff. The subdivision request was inadvertently noticed for this agenda. Commission action on the parcel map application is not necessary and the Commission is asked to table the subdivision request.

Staff is recommending approval of the zoning amendment request to allow for the increase in the number of beds within the existing senior care facility, PM Rowe said. The request for additional beds within the existing facility is in keeping with the intent of the conditional zoning established under Ordinance 576.

Commissioner Benich questioned the parking, with PM Rowe responding and explaining the requirements of licensing for the facility with the parking being based on space rather than occupancy.

Chair Sullivan opened the public hearing.

James Albertson, 17090 Peak Ave., Administrator of the facility, was present to represent the applicants and offered to answer questions.

Chair Sullivan asked how the current residents feel about this proposal? Mr. Albertson responded that even if discussions were held, most residents were not able to comprehend the matter. He went on to say that the proposal had been told to those third parties with financial responsibilities of the residents. Mr. Albertson explained this project would provide the accessibility of more semi-private rooms and most persons involved in payments were interested in lowering costs of monthly payments.

Responding to questions from Commissioner Weston, Mr. Albertson said that the owners want to refinance the property to reduce the interest payments and most lenders would be more receptive to the larger facility.

Commissioner Mueller asked about the residents' former living arrangements, whether they were local residents? Mr. Albertson responded that most were long-time residents, and further commented that people in such facilities liked to remain within a half-hour drive of their friends and relatives.

Chair Sullivan closed the public hearing.

COMMISSIONERS MUELLER/McMAHON MOTIONED FOR ADOPTION OF RESOLUTION NO. 02-22, RECOMMENDING APPROVAL OF AN AMENDMENT TO ORDINANCE 576 TO ALLOW AN INCREASE IN THE

NUMBER OF OCCUPANTS OF THE SENIOR CARE FACILITY LOCATED AT 17090 PEAK AVE. FROM 15 TO 28 BEDS. THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, LYLE, MCMAHON, MUELLER, SULLIVAN, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

OTHER BUSINESS:

Commissioner Acevedo was excused at 10:35 p.m

**10) SAFEWAY
WORKSHOP
REQUEST WITH
COMMISSION ON
MARCH 26, 2002**

This is a request to amend the precise development plan for the Tennant Station shopping center to allow for the construction of a 54,799 sq. ft. grocery store, a 7000 sq. ft. office building, and a 14-pump fuel center, PM Rowe reminded the Commissioners that this item was considered by the Planning Commission at its January 22, 2002 meeting. The Commission forwarded a recommendation to the City Council to approve the zoning amendment allowing for the shopping center expansion. As part of that action, the Commission also requested that the PUD Guidelines be returned to the Planning Commission for further review. The PUD Guidelines establish the development standards for the shopping center. Commissioners also voted 5-1 to recommend the proposed 14-pump fuel center be relocated from the corner of Tennant and Monterey to the site of the proposed office building on Tennant Avenue.

Reporting on the City Council review of the zoning amendment application at its February 6, 2002 meeting, PM Rowe said, "after a lengthy discussion, the Council voted to allow the fuel center at the corner location. However, in approving the applicant's request, the Council agreed with the Commission that the fuel center design and site layout was unacceptable. It was the consensus to the Council that the final design for the fuel center had to include retention of the existing mature landscaping and that the canopy and kiosk building had to be well designed to a high standard." PM Rowe noted that on a 5-0 vote, the Council referred the zoning application back to the Planning Commission so that the design issues of the shopping center expansion could be adequately addressed. He had attached minutes from the February 6 City Council meeting to provide additional background on the Council's discussion of this item in the packets sent to the Commissioners.

PM Rowe indicated that in order to be responsive to the City's concerns regarding the design of the new Safeway and the Safeway fuel center, the applicant is requesting an opportunity to meet with Planning Commission in a workshop. Following the workshop, the development plans will be revised and brought back to the Commission for approval with the PUD application. Should the Commission decide to hold a workshop, PM Rowe said, it is recommended by staff that the workshop be held at 6:00 p.m. prior to the March 26, 2002 meeting.

Under discussion, Commissioners expressed concern and some dismay at the lobbying efforts of Safeway officials and the developers in this matter. The purposes and duties of the Commission versus those duties of the ARB were discussed in depth.

Following a number of items being listed as concerns, it was agreed that a workshop at

the next regularly scheduled meeting to which the ARB, and Senior staff of the City will be invited for informational purposes to hear discussion on the following items:
Fuel center placement:

- Location of the public bathrooms
- Location of the attendant's station
- The corridor between the bowling alley and the proposed new building
- Signage
- Landscaping
- Fuel station design / vertical elements of the canopy
- Pedestrian access to the eastern end of the development
- Issues of under parking at the eastern end of the development
- Movie theater expansion
- Distances between buildings
- Heights at Vineyard Court
- Ingress/egress to the fuel station
- Ingress/egress to the shopping center
- Exit strategy for the fuel station, i.e., would another company take it over someday?
- Design of the fuel station integrated into the design of the project and across the street (Vineyard)
- Balance and landscaping
- Lot widths plus safety on sidewalks
- Increased traffic
- Lighting
- Applicant's treatment of entrance from Vineyard as a secondary entrance
- Existing redwood tree possible removal

PM Rowe indicated he would convey the concerns of the Commissioners to the applicant, and would contact the persons on the ARB and City staff regarding the Commissioners request that they attend the workshop.

Commissioner Acevedo returned to the meeting at 11:04 p.m. and was seated on the dias.

Commissioner Weston requested that the matter of landscaping in front of the water tower at Madrone Parkway and Monterey Road be placed on an upcoming agenda.

ANNOUNCEMENTS:

PM Rowe told Commissioners that at the March 6, 2002 City Council meeting, the prezone of Hill-Gera had been approved, as had the first quarter report of RDCS. Further, he said, the development agreement of E. Dunne-Morgan Meadows and E. Dunne-Trovare had been accepted.

PM Rowe also reported that the amendment of the zoning text for the fencing heights had been addressed positively by the Council.

The Cathlic High School EIR and Urban Service Area, General Plan Amendment,

Zoning Amendment and Annexation applications were all approved by Council.

Commissioner Mueller said the County of Santa Clara is looking at relaxing the requirements on religious buildings in the County, a proposal which he termed to be in direct conflict with the General Plan agreement.

The three newest members of the Planning Commission, Commissioners Acevedo, Benich and Weston, will be attending The Planners Institute conducted by the League of California Cities in Monterey from March 20 - 22nd.

It was noted that VTA is holding hearings in Gilroy regarding proposed route reductions. Commissioners felt this could have a detrimental effect on the residents of Morgan Hill and asked staff to ascertain if the City planned on commenting on the issue. Commissioners discussed the requirement of a 10% reduction in traffic in relation to this matter.

ADJOURNMENT: There being no further business, Chair Sullivan adjourned the meeting at 11:14 p.m..

MINUTES RECORDED AND PREPARED BY:

JUDI H. JOHNSON, Minutes Clerk